

# FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

January 23, 2014

**SENT VIA U.S. MAIL AND FAX: 602.254.4878**

Susan Plimpton Segal  
Attorney, Gilbert Public Schools  
One E. Washington, suite 1600  
Phoenix, AZ 85004

Re: Prayers at School Board Meetings

Dear Ms. Segal and Members of the Board:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to caution you against allowing prayer before board meetings. We were contacted by a concerned citizen who worried that Gilbert Public School's Board may follow in the reckless footsteps of Mesa Public Schools. FFRF is a national nonprofit organization with nearly 20,000 members, including more than 500 members in Arizona, including a local chapter, the Valley of the Sun Chapter of FFRF.

It is our understanding that the board is considering replacing its old practice of having a moment of silence before board meetings – a practice that is inclusive of everyone – with religious prayer. We further understand that there are often children from around the district who attend these meetings to participate in opening ceremonies.

Public school board's may not include prayer as part of its scheduled meetings. Federal courts have struck down school board practices that include this religious ritual. *See Doe v. Indian River School District*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097 (holding that prayer at school board meetings conveys message favoring religion); *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999) (finding that a school board's practice of opening its meetings with prayers violated the Establishment Clause); *Doe v. Tangipahoa Parish Sch. Bd.*, 473 F.3d 188 (5th Cir. 2006), *dismissed on other grounds*, 494 F.3d 494 (5th Cir. 2007) (finding a school board's practice of opening meetings with sectarian prayer unconstitutional); *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed. Appx. 355, (9th Cir. Cal. 2002) (finding that a school board violated the Establishment Clause in allowing prayers "in the name of Jesus").

The Supreme Court has continually and consistently struck down prayer by school officials in the public schools. *See, e.g., Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring as unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring school organized prayers in public schools unconstitutional); *See also Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion);

*Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily “period of silence not to exceed one minute ... for meditation or daily prayer”); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) (holding unconstitutional pre-game invocations at high school football games). In all of the aforementioned cases, the federal courts have struck down prayer in the public school context because it constitutes a government endorsement of religion, which violates the Establishment Clause of the First Amendment.

The Ninth Circuit, of which Arizona is a part, in the *Bacus* decision mentioned above, and the Third Circuit Court of Appeals, in *Doe v. Indian River School District*, emphasized that school board prayer is analogous to other school prayer cases. The courts seek to protect children from the coercion of school-sponsored prayer, and that constitutional protection is heightened in the context of public schools. 653 F.3d at 275. In *Doe*, the court also held that the school board meetings are “an atmosphere that contains many of the same indicia of coercion and involuntariness that the Supreme Court has recognized elsewhere in its school prayer jurisprudence.” *Id.* The court’s “decision [was] premised on careful consideration of the role of students at school boards, the purpose of the school board, and the principles underlying the Supreme Court’s school prayer case law.” *Id.* at 281. The final conclusion was that the school board prayer policy “[rose] above the level of interaction between church and state that the Establishment Clause permits.” *Id.* at 290.

Certainly, a public school board is an essential part of the public school system. *See Coles v. Cleveland Bd. of Educ.*, 171 F.3d at 381 (“...the school board, unlike other public bodies, is an integral part of the public school system.”). Public school boards exist to set policies, procedures, and standards for education within a community.

The issues discussed and decisions made at board meetings are wholly school-related, affecting the daily lives of district students and parents. In striking down the board’s prayers in *Coles*, the Sixth Circuit found prayers at school board meetings to be squarely within the context of school prayer cases. The court noted, “although meetings of the school board might be of a ‘different variety’ than other school-related activities, the fact remains that they are part of the same ‘class’ as those other activities in that they take place on school property and are inextricably intertwined with the public school system.” *Id.* at 377. Therefore, prayer at public school board meetings is no different than a prayer given at other school district events and is unconstitutional.

Prayer at public school board meetings is unnecessary, inappropriate, and divisive. Calling upon board members, as well as parents and students of the school, to pray is coercive, embarrassing, and beyond the scope of our secular school system. Board members are free to pray privately or to worship on their own time in their own way. The governing board ought not to lend its power and prestige to religion, amounting to a governmental endorsement of religion that excludes the one in five adult Americans and one in three young Americans who are now nonreligious.<sup>1</sup>

---

<sup>1</sup> “Nones on the Rise: One-in-Five Adults Have No Religious Affiliation,” Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012) *available at* <http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx>.

FFRF is currently litigating a case of school board prayer in South Carolina. We hope that this board will not bow to the financially irresponsible and unconstitutional wishes of citizens who insist on pushing their religious rituals on everyone else. We ask this board to hold firm in its position to keep prayers a private matter between each citizen and his or her god. We urge you to remember what Thomas Jefferson said, "that civil powers alone have been given to" our governments and that they have "no authority to direct the religious exercises of [their] constituents." May we have written assurances that you will institute prayers?

Sincerely,



Andrew L. Seidel  
Staff Attorney

ALS:jki

CC:

Staci Burk, President  
140 S. Gilbert Rd.  
Gilbert, AZ 85296  
Staci.Burk@gilbertschools.net

Julie Smith  
140 S. Gilbert Rd.  
Gilbert, AZ 85296  
Julie.Smith@gilbertschools.net

Daryl Colvin  
140 S. Gilbert Rd.  
Gilbert, AZ 85296  
Daryl.Colvin@gilbertschools.net

Jill Humpherys  
140 S. Gilbert Rd.  
Gilbert, AZ 85296  
Jill.Humpherys@gilbertschools.net

Lily Tram  
140 S. Gilbert Rd.  
Gilbert, AZ 85296  
lily.tram@gilbertschools.net